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July 30, 2013

Via E-mail

Honorable Ronnie Abrams
United States District Court
40 Foley Square, Room 2203
New York, New York 10007-1312

**USDC SDNY
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Re: *Hanjin Shipping Co. Ltd. v. Practica Shipping Corporation*, Docket No.: 13 cv 4682
CHALOS & Co. Ref: 2094.040

Dear Judge Abrams:

We are attorneys for the Defendant, Practica Shipping Corporation. (“Practica” or “Defendant”), in the above-captioned matter. On July 8, 2013, Plaintiff commenced this action seeking extraordinary *ex parte* relief pursuant to Supplemental Admiralty Rule B.¹ Docket # 1. An Order for Issuance of a Writ of Maritime Attachment and Garnishment (“Order of attachment”) was issued on July 9, 2013, and permitted attachment of Defendant’s assets in an amount up to USD 2,006,782.50. The Order of attachment identified three (3) garnissees upon which the Order would be served.² Docket # 2. Each of these garnissees has now filed an Answer or Response with the Court, confirming that they are not holding any other tangible or intangible property belonging to or held for the benefit of Practica. Dockets # 8 – 11.

A threshold requirement to maintain a Rule B attachment action is that defendant’s property be found in the District where the attachment is sought. *See Aqua Stoli Shipping Ltd. v. Gardner Smith Pty Ltd.*, 460 F.3d 434, 445 (2d Cir. 2006). Here, as evidenced by Plaintiff’s own Complaint, and the subsequent submissions of the three (3) garnissees, neither Practica nor any property of Practica can be found within the Southern District of New York.³

¹ See *Interglobe S.R.L. v. Garden Interior Gift Int’l, Inc.*, 2009 U.S. Dist. LEXIS 86496, *12 (S.D.N.Y. Sept. 16, 2009)(“...pre-judgment attachment is an extraordinary remedy available only under limited circumstances.”); *Far E. Shipping Co. v. Progress Bulk Carriers, Ltd.*, 2008 U.S. Dist. LEXIS 106861 (S.D.N.Y. 2008)(The maritime attachment of Admiralty Rule B is an extraordinary remedy which requires the demonstration of due diligence by the party seeking relief.”)

² The proposed Order of attachment included additional garnissees; however, the Court struck the language referring to these garnissees before issuing the Order of attachment. Docket # 2.

³ It is well-settled that, where no assets have been attached pursuant to Rule B, there is no basis for jurisdiction over the defendant, and the action must be dismissed. The analysis of the court in *Blueye Navigation v. Oltenia Navigation*, 1995 U.S. Dist. LEXIS 1844, *13 (S.D.N.Y. Feb. 15, 1995), is instructive: “In fact, for Rule B attachment to be appropriate, it is clear that the property must be located within the district and the property must belong to the defendant.... If, as in this case, no property was attached in the first instance, then no jurisdiction was ever obtained under Supplemental Rule B.” *Id.* at *13 – 15.



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Accordingly, for the reasons set forth above, Practica respectfully requests that the Order of attachment be vacated and the matter dismissed in its entirety.

In advance, we thank the Court for its time and consideration, and remain,

Respectfully yours,

CHALOS & Co., P.C.

Katherine Christodoulatos

GMC/knc

George M. Chalos

Katherine N. Christodoulatos

cc: *Via E-mail*

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10/15/13 *lrb* *B. Fawver*
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